

**§ 137.286 Do Self-Governance Tribes become Federal agencies when they assume these Federal environmental responsibilities?**

No, while Self-Governance Tribes are required to assume Federal environmental responsibilities for projects in place of the Secretary, Self-Governance Tribes do not thereby become Federal agencies. However, because Self-Governance Tribes are assuming the responsibilities of the Secretary for the purposes of performing these Federal environmental responsibilities, Self-Governance Tribes will be considered the equivalent of Federal agencies for certain purposes as set forth in this subpart.

**§ 137.287 What is the National Environmental Policy Act (NEPA)?**

The NEPA is a procedural law that requires Federal agencies to follow established environmental review procedures, which include reviewing and documenting the environmental impact of their actions. NEPA establishes a comprehensive policy for protection and enhancement of the environment by the Federal Government; creates the Council on Environmental Quality in the Office of the President; and directs Federal agencies to carry out the policies and procedures of the Act. CEQ regulations (40 CFR 1500–1508) establish three levels of environmental review: categorical exclusions, environmental assessments, and environmental impact statements.

**§ 137.288 What is the National Historic Preservation Act (NHPA)?**

The NHPA requires Federal agencies to take into account the effects of their undertakings, such as construction projects, on properties covered by the NHPA, such as historic properties, properties eligible for listing on the National Register of Historic Places, or properties that an Indian Tribe regards as having religious and/or cultural importance. Section 106 of the NHPA [16 U.S.C. 470f] requires Federal agencies to afford the Advisory Council on Historic Preservation, acting through the SHPO or the THPO, a reasonable opportunity to comment on such undertakings.

**§ 137.289 What is a Federal undertaking under NHPA?**

The Advisory Council on Historic Preservation has defined a Federal undertaking in 36 CFR 800.16(y) as a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried out with Federal financial assistance; those requiring a Federal permit, license or approval; and those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.

**§ 137.290 What additional provisions of law are related to NEPA and NHPA?**

(a) Depending upon the nature and the location of the construction project, environmental laws related to NEPA and NHPA may include:

- (1) Archaeological and Historical Data Preservation Act [16 U.S.C. 469];
- (2) Archeological Resources Protection Act [16 U.S.C. 470aa];
- (3) Clean Air Act [42 U.S.C. 7401];
- (4) Clean Water Act [33 U.S.C. 1251];
- (5) Coastal Barrier Improvement Act [42 U.S.C. 4028 and 16 U.S.C. Sec. 3501];
- (6) Coastal Barrier Resources Act [16 U.S.C. 3501];
- (7) Coastal Zone Management Act [16 U.S.C. 1451];
- (8) Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9601];
- (9) Endangered Species Act [16 U.S.C. 1531 *et seq.*];
- (10) Farmland Protection Policy Act [7 U.S.C. 4201 *et seq.*];
- (11) Marine Protection, Research, and Sanctuaries Act [33 U.S.C. 1401–1445; 16 U.S.C. 1431–1447F; 33 U.S.C. 2801–2805];
- (12) National Historic Preservation Act [16 U.S.C. 470 *et seq.*];
- (13) National Trails System Act [16 U.S.C. 1241];
- (14) Native American Graves Protection and Repatriation Act [25 U.S.C. 3001];
- (15) Noise Control Act [42 U.S.C. 4901];
- (16) Resource Conservation and Recovery Act [42 U.S.C. 6901];
- (17) Safe Drinking Water Act [42 U.S.C. 300F];